IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT APPEAL NO : 1492 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21/07/2005 in WP NO : 15850 OF 2005 on the file of the High Court.)

Between:

Kalagara Vighneswara rao S/o Late Subbarao
R/o Buttaigudem Village & Mandal,

West Godavari District

..... APPELLANT

AND

1 The Commissioner and Director of Settlement,

Survey Bhavan, H.No. 1088, Narayanaguda, Hyderabad
2 Sri. Thodam Sankuru S/o Pedapentaiah
R/o Buttaigudem Vilalge & Mandal, West Godavari District

.....RESPONDENTS

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JUDGMENT: (Per Hon'ble Sri Bilal Nazki, The Acting Chief Justice)

Notice has been received by the appellant-petitioner, with regard to appeal, from first respondent.

The contention of the learned Counsel for the appellant is that appeal is barred by limitation, and first respondent should have not entertained the appeal. This ground can also be taken before the learned Commissioner as the learned single Judge has also held,

> ‘ There is no cause of action to file this writ petition under Article 226 of the Constitution of India. It is for the petitioner to appear before the Appellate Authority on the particular day and state as to how the appeal is not maintainable instead of filing the writ petition.’

Therefore, we do not find any merit in this Writ Appeal, which is accordingly dismissed. However, we permit the appellant to raise all pleas including the plea of limitation before the first respondent, and if a plea of limitation is taken before the first respondent, he should pass a reasoned order on that plea as well. No costs.

(Bilal Nazki, A.C.J)

17th August, 2005

(G.Chandraiah, J)

LUR